

REMARKS

In the Office Action, the Examiner rejected claims 1-15. Claims 1-9 and 11-15 have been amended, claims 16-20 have been cancelled, and new claims 21-27 have been added. No new matter has been added. The Examiner will appreciate that claims 2-9 and 11-15 have been amended to improve the manner in which they read and that the scope of such claims has not changed. The new claims have been added to further define certain aspects of the invention. The Applicant respectfully requests reconsideration and allowance of all pending claims in view of the foregoing amendments and the following remarks.

Election/Restriction

The Examiner restricted claims 1-15 to Group I and restricted claims 16-20 to Group II. Specifically, the Examiner restricted the claims of Group I as being drawn to a polymerization process (class 526, subclass 64) and restricted the claims of Group II as being drawn to a loop reactor (class 422, subclass 132). During a telephone conversation between prosecuting attorney of record, Mr. Michael G. Fletcher, and Examiner Caixia Lu, on June 22, 2004, a provisional election was made without traverse to prosecute those claims restricted to Group I. The provisional election is hereby affirmed. Accordingly, Applicants have canceled claims 16-20 without prejudice for possible inclusion in a divisional application. Consideration of claims 1-15 and 21-27 is respectfully requested in view of the remarks set forth below.

Rejection under 35 U.S.C. § 112

The Examiner rejected claims 1-15 under 35 U.S.C. § 112, second paragraph, because the Examiner alleged that the phrase “desired range” was indefinite. Although Applicant does not agree with the Examiner’s rejection, the objectionable phrase has been removed from the claims. Accordingly, this rejection is moot.

Rejections Under 35 U.S.C. § 102

The Examiner rejected claims 1-15 under 35 U.S.C. § 102(e) as being anticipated by Kendrick et al. (US 2002/0173598 A1). Applicants respectfully traverse this rejection.

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). In order to maintain a proper rejection under section 102, a single reference must teach each and every element or step of the rejected claim, else the reference falls under section 103. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Accordingly, the Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter. The prior art reference also must show the identical invention “in as complete detail as contained in the ... claim” to support a

prima facie case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

Independent claim 1, as amended, recites “withdrawing a portion of the fluid slurry as an intermediate product at a slurry withdrawal location in the loop reaction zone where the intermediate product contains a higher concentration of the solid polyolefin particles than an average concentration of the solid polyolefin particles the fluid slurry in the loop reaction zone.” In sharp contrast, the Kendrick reference cited by the Examiner is completely devoid of any description of the solids concentration at a withdrawal location of the loop reactor. Therefore, the Kendrick reference fails to disclose each element of independent claim 1. Accordingly, the Kendrick reference cannot anticipate claim 1 or claims 2-15 which are dependent thereon. As such, the Applicant respectfully requests withdrawal of the foregoing rejection and allowance of claims 1-15.

New Claims


The Applicant has added new claims 21-23, which are dependent directly or indirectly from claim 1, as well as a new claim set 24-27, to further define certain aspects of the present invention. The Applicant respectfully submits that new claims 21-27 are patentable over the prior art of record and in condition for allowance. Accordingly, the Applicant respectfully requests favorable examination and allowance of new claims 21-27.

Conclusion

In view of the remarks and amendments set forth above, Applicant respectfully requests allowance of claims 1-15 and,21-27. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: October 1, 2004



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